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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,975	09/10/2003	Peter R. Anderson	1842.041US1	3982
70648 7590 07/24/2008 SCHWEGMAN, LUNDBERG & WOESSNER/WMS GAMING P.O. BOX 2938 MINNEAPOLIS, MN 55402				
EXAMINER				
D'AGOSTINO, PAUL ANTHONY				
ART UNIT		PAPER NUMBER		
3714				
MAIL DATE		DELIVERY MODE		
07/24/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/658,975

**Applicant(s)**

ANDERSON ET AL.

**Examiner**

Paul A. D'Agostino

**Art Unit**

3714

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE-US)  
Paper No(s)/Mail Date 6/16/2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This responds to Applicant's Arguments/Remarks filed 06/16/2008. Claims 10 and 15 have been amended, Claims 1-9 have been cancelled, and Claims 19-22 have been newly added. Claims 10-22 are now pending in this application.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 10-12, 14-17, and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,701,511 to Smith (Smith) of record in view of U.S. Patent No. 6,302,790 to Brossard (Brossard) of record.

Smith discloses a method using a personal computer (Figs. 1 and 2 "personal computer" 10 and known audio tracks with embedded markers (Fig. 4)) to conduct personal computing (wherein "workstation [is] coupled to a local area network or wide area network" Col. 4 Lines 42-43), comprising:

storing an audio file in a memory structure (Smith discloses known sequences of a plurality of audio tracks alternating between a plurality of tick marks (first data structure) of Fig. 4 wherein these audio sequences (second data structure) are "recorded on a CD-ROM" Col. 1 Lines 28-50 and Fig. 2 "memory (ROM and RAM)" 21 and CD-ROM Col. 1 Lines 28-50) wherein the memory structure further including an association table (known audio tracks necessary must have an association structure or coding (third data structure) in memory for the timing marks to be pre-associated with events whereby the marks serve as "references" (Col. 1 Line 39) to link to corresponding functions wherein "These timing marks serve as references for synchronizing other concurrent elements of the multimedia work with the audio track" Col. 1 Lines 38-41); and

reading the first data structure and playing the audio sequence from the second

data structure, including playing and initiating an event in response to detecting a position in the audio sequence corresponding to the marker, the event being pre-associated with the marker (Smith discloses known prior art controllers (Fig. 2 "CPU" 23) which reads the marker (first data structure) i.e., "To avoid loss of synchronization and sequencing of audio data and other data, the conventional scheme embeds timing mark ticks 54 in the audio data in a track 50" Col. 6 Lines 16-19); and initiates an event ("These timing marks serve as references for synchronizing other concurrent elements of the multimedia work with the audio track" Col. 1 Lines 38-41).

{Smith also discloses a method wherein the audio file is formatted as a wave (.wav) file ("a wave file" Col. 5 Line 17)}

However, Smith does not explicitly disclose a wagering game or wagering-game related events or of activation of another audio file.

Brossard teaches of a method of wagering on a game machine with audio output (Fig. 4A) and storing audio files in a memory structure ("in order to output or reproduce audio, visual, or audio-visual works which may be, e.g. stored in memory 512" Col. 3 Lines "3-65) such that "in response to a game event such as a win" (Col. 4 Lines 1-5) playback begins "e.g., of a song or other audio or audio visual item is 'won', playback begins, and a pointer 462 is controlled to begin rotating about the center of a generally circular display 464" (Col. 4 Lines 26-31) in order to increase the game entertainment value and thus revenue potential for game operators (Col. 1 Lines 44-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the wagering game method, storage in memory of audio

files, and playback of another audio file as taught by Brossard into the teachings of Smith in order to increase the game entertainment value and thus revenue potential for game operators.

5. Claims 13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,701,511 to Smith (Smith) of record in view of U.S. Patent No. 6,302,790 to Brossard (Brossard) and further in view of U.S. Patent No. 5,588,096 to Sato et al. (Sato).

Smith, as modified by Brossard, discloses a system substantially equivalent to applicant's claimed invention. However, Smith fails to teach wherein the event includes an animation sequence involving movements of a character's mouth.

Sato teaches of an event including an animation sequence involving movements of a character's mouth (Fig. 9, 12-17, and 21 and of object display devices of "a person's face which is created and recorded beforehand" Col. 1 Lines 11-13) in order to change the image of an object without performing complicated key operations (Col. 1 Lines 30-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the face object as taught by Sato into the teachings of Smith, as modified by Brossard, in order to change the image of an object without performing complicated key operations.

6. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,701,511 to Smith (Smith) of record in view of U.S. Patent No.

6,302,790 to Brossard (Brossard) and further in view of U.S. Patent No. 5,588,096 to Sato et al. (Sato) and U.S. Patent No. 5,734,923 to Sagawa et al. (Sagawa).

Smith as modified by Brossard and Sato discloses a system substantially equivalent to Applicant's claimed invention. However, Smith as modified by Brossard and Sato is silent on providing closed captioning or sign language presentations.

Sagawa teaches of known systems and methods which display sign-language images in synchronization with characters, pictures or video scenes (Col. 1 Lines 10-45) in order to provide an information guidance system for the hearing impaired.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the known systems and methods to deliver both captioning and sign language as taught by Sagawa into the teachings of Smith as modified by Brossard and Sato in order to provide an information guidance system interface on the gaming machine for the hearing impaired.

7. Claims 10-13, 15-18, and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Pub. No. 2004/0147300 to Seelig et al. (Seelig) in view of U.S. Patent No. 6,415,303 to Meier et al. (Meier).

Seelig teaches of a gaming method to conduct a wagering game (Fig. 5A) with an animatronic figure and mechanical reels {wagering-game related events} (Fig. 5A-5C "fortune teller" 205 and [0117-0120]) whereby a controller initiates movement of the animatronic figure ("Animated Fig. 205 is managed by control system 30..." [0118]; also "the animated figure could be a sophisticated system having the ability to speak and to make very precise and complex movements [0073]) and wherein "Motor controller 44

may be configured to provide local storage for a variety of different commands that control motors 48a, 48b, and 48c. ... Each motor 48a, 48b, and 48c may control and cause movement in one or more animated elements, such as an arm, finger, leg, or mouth" [0086].

However, Seeling is silent on storing an audio file in a memory structure, the audio file including a first data structure that defines a plurality of markers and a second data structure that defines a plurality of audio sequences; and playing the audio sequences from the second data structure, including successively playing the audio sequences and initiating game-related events pre-associated with the respective audio sequences in response to detecting the position among the audio sequences corresponding to each respective marker in the first data structure.

Meier teaches of multimedia applications (Col. 1 Lines 52-54) and methods for use with an interactive television systems (Figs. 1 and 2) or personal computers (Col. 3 Lines 19-24) over a network (Col. 1 Lines 29-31), comprising:

storing an audio file in a memory structure, the audio file including a first data structure that defines a plurality of markers and a second data structure that defines a plurality of audio sequences ("The method includes the step of storing at least one composite description in an ASCII text file." Col. 1 Lines 62-67 wherein a composite (third data structure) includes audio files (second data structure) embedded with tick timing marks (first data structure) Col. 4 Lines 34-60 and Col. 14 Lines 33-44), the memory structure further including an association table (the system identifies the mark to be trapped with an associated event in the composite Col. 14 Lines 33-44 and Cols.



31-32 and memory of Fig. 2 and 4 "asset database", "application database" and "servers" ); and

playing the audio sequences from the second data structure, including successively playing the audio sequences and initiating game-related events pre-associated with the respective audio sequences in response to detecting the position among the audio sequences corresponding to each respective marker in the first data structure (the method includes use of a controller (Fig. 1 and "controller" 120 Col. 2 Line 62 operative to access the audio file, read the marker associated with the audio file, play the audio sequence Col. 4 Lines 40-55; also audio files are associated with an application (composite) under the control of the Composite Description Language (CDL) Col. 4 Lines 11-39 and timer Event Handler Col. 2 Lines 1-8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the multimedia application and methods of Meier into the gaming machine of Seelig in order to increase the excitement and enjoyment experienced by players, attract more players to the game, and encourage them to play longer [Seelig, 0009].

8. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Pub. No. 2004/0147300 to Seelig et al. (Seelig) in view of U.S. Patent No. 6,415,303 to Meier et al. (Meier). and further in view of U.S. Patent No. 5,734,923 to Sagawa et al. (Sagawa).

Seelig as modified by Meier discloses a system substantially equivalent to Applicant's claimed invention. However, Seelig as modified by Meier is silent on

providing closed captioning or sign language presentations.

Sagawa teaches of known systems and methods which display sign-language images in synchronization with characters, pictures or video scenes (Col. 1 Lines 10-45) in order to provide an information guidance system for the hearing impaired.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the known systems and methods to deliver both captioning and sign language as taught by Sagawa into the teachings of Seelig as modified by Meier in order to provide an information guidance system interface on the gaming machine for the hearing impaired.

### ***Response to Arguments***

9. Applicant's arguments filed 6/16/2008 have been fully considered but they are not persuasive. Applicant's arguments are directed to the invention of Smith who invents separate audio files for use with CD players. However, Smith discloses prior art of single tick mark embedded audio files upon which Examiner basis his rejection of the claims. Consequently, Examiner has recast the rejection of the claims to direct Applicant to Smith's disclosure of known conventional audio tracks and away from the specific invention of Smith to apply conventional technology to CD players. For this reason the rejections of claims 10-22 are maintained.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to

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applicant's disclosure is provided in the Notice of References Cited.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. D'Agostino whose telephone number is (571)270-1992. The examiner can normally be reached on Monday - Friday, 7:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/  
Primary Examiner, Art Unit 3714  
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Examiner, Art Unit 3714